

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JESSICA DICICCO,

Plaintiff,

-against-

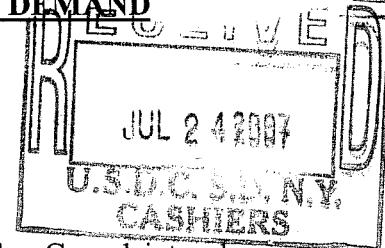
CHEF DRIVEN, INC. and FRENCH ROAST, INC.,

Defendants.

X

'07 CIV 6629
Case No.

**COMPLAINT
AND JURY DEMAND**



Plaintiff, JESSICA DICICCO, by her attorneys, Sheriff & Fink, P.C., for her Complaint and

Jury Demand, respectfully alleges:

PARTIES

1. Plaintiff JESSICA DICICCO was and still is a citizen of the State of California.
2. Defendant CHEF DRIVEN, INC. was and still is a New York corporation with its principal place of business in the State of New York.
3. Defendant FRENCH ROAST, INC. was and still is a New York corporation with its principal place of business in the State of New York.

SUBJECT MATTER JURISDICTION

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds Seventy-Five Thousand Dollars exclusive of interest and costs and there is diversity of citizenship between the parties.

IN PERSONAM JURISDICTION AND VENUE

5. Plaintiff JESSICA DICICCO repeats each allegation contained in paragraphs 1-4.

6. Upon information and belief, Defendant CHEF DRIVEN, INC. committed tortious acts within the State of New York causing injury to Plaintiff within the Southern District of New York.

7. Upon information and belief, Defendant FRENCH ROAST, INC. committed tortious acts within the State of New York causing injury to Plaintiff within the Southern District of New York.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1331(a)(2) because the Accident that gave rise to the claims occurred in the State of New York, Southern District of New York.

FOR A FIRST CLAIM
PLAINTIFF JESSICA DICICCO

9. Plaintiff JESSICA DICICCO repeats each allegation contained in paragraphs 1-8.

10. Upon information and belief, at all relevant times, Defendant CHEF DRIVEN, INC. owned a restaurant at the premises located at 2340 Broadway, City and State of New York (the "Restaurant").

11. Upon information and belief, at all relevant times, Defendant CHEF DRIVEN, INC. leased the Restaurant.

12. Upon information and belief, at all relevant times, Defendant CHEF DRIVEN, INC. operated the Restaurant.

13. Upon information and belief, at all relevant times, Defendant CHEF DRIVEN, INC. managed the Restaurant.

14. Upon information and belief, at all relevant times, Defendant CHEF DRIVEN, INC. maintained the Restaurant.

15. Upon information and belief, at all relevant times, Defendant CHEF DRIVEN, INC. controlled the Restaurant.

16. Upon information and belief, at all relevant times, Defendant FRENCH ROAST, INC. owned the Restaurant.

17. Upon information and belief, at all relevant times, Defendant FRENCH ROAST, INC. leased the Restaurant.

18. Upon information and belief, at all relevant times, Defendant FRENCH ROAST, INC. operated the Restaurant.

19. Upon information and belief, at all relevant times, Defendant FRENCH ROAST, INC. managed the Restaurant.

20. Upon information and belief, at all relevant times, Defendant FRENCH ROAST, INC. maintained the Restaurant.

21. Upon information and belief, at all relevant times, Defendant FRENCH ROAST, INC. controlled the Restaurant.

22. The Restaurant was open to and for the use of the general public for a fee.

23. Defendant CHEF DRIVEN, INC. invited members of the general public, and more particularly, Plaintiff JESSICA DICICCO, into the Restaurant.

24. Defendant FRENCH ROAST, INC. invited members of the general public, and more particularly, Plaintiff JESSICA DICICCO, into the Restaurant.

25. On December 23, 2006, at approximately 11:45 a.m., Plaintiff JESSICA DICICCO was a lawful patron and paying guest at the Restaurant.

26. Upon information and belief on December 23, 2006, at approximately 11:45 a.m., there were faulty service items in the Restaurant, namely the pot or pots which the Restaurant used to serve hot water for tea (the "Tea Pot").

27. On December 23, 2006, at approximately 11:45 a.m. Plaintiff JESSICA DICICCO was burned by scalding was as a result of defective and/or broken Tea Pot (the "Accident").

28. As a result of the Accident, Plaintiff JESSICA DICICCO, sustained severe and serious personal injuries and was required to seek and obtain medical care and attention in an

effort to cure and/or alleviate the injuries and, upon information and belief, will be compelled to continue such treatment in the future.

29. The Accident and injuries sustained by Plaintiff JESSICA DICICCO were caused solely by the negligence and carelessness of Defendants in the operation, management, use, and/or control of the Restaurant, and more particularly, by not examining the Tea Pot before allowing their customers to use the Tea Pot, by not repairing or removing the Tea Pot that was faulty, dangerous, and broken, by not removing the Tea Pot that was old and overused and not in proper working order, by not ensuring that the Tea Pot was in a fit condition for use, and were otherwise negligent.

30. The Accident occurred solely as a result of the negligence of Defendants without any negligence on the part of Plaintiff JESSICA DICICCO contributing thereto.

31. As a result of the Accident, Plaintiff JESSICA DICICCO has been damaged in the amount of One Million Dollars (\$1,000,000.00).

WHEREFORE, Plaintiff demands judgment against Defendant CHEF DRIVEN, INC. and Defendant FRENCH ROAST, INC., jointly and severally on the first claim in the sum of One Million Dollars (\$1,000,000.00), together with costs and disbursements of this Action.

Dated: New York, New York
July 23, 2007

BY:

CHERIFF & FINK, P.C.

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